

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC.

Defendants

Civil Action: 04-30126-MAP

**DEFENDANT COMPLIENT CORPORATION'S MEMORANDUM IN OPPOSITION
TO PLAINTIFF'S MOTION FOR DECLARATORY JUDGMENT**

Defendant Compliant Corporation ("Compliant") respectfully requests that Plaintiff Donald C. Hutchins' ("Hutchins") Motion for Declaratory Judgment be denied. Hutchins' Motion appears to request that the Court declare him the owner of certain intellectual properties. However, Hutchins' Motion is not the proper vehicle to make such a request given that there is no claim for declaratory judgment found in his Amended Complaint.

Further, Hutchins has failed to establish the requisite case or controversy to warrant the entry of a declaratory judgment. He does not allege that there is a controversy among the parties to this case (which are now only Hutchins and Compliant) as to the rightful ownership of the referenced intellectual properties; rather, his request is based on some alleged confusion in an unnamed and unspecified marketplace. Given that he further alleges that the U.S. Patent Office has him listed as the owner of the referenced intellectual properties, any person or entity who is confused as he alleges can simply refer to this governmental agency. Accordingly, there is

simply no basis to issue the requested declaratory judgment and Compliant respectfully requests that his Motion for Declaratory Judgment be denied.

Respectfully submitted,

/s/ John J. Egan

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CERTIFICATE OF SERVICE

A copy of the foregoing Defendant Compliant Corporation's Memorandum in Opposition to Plaintiff's Motion for Declaratory Judgment is being served by operation of the Court's electronic filing system and First Class United States Mail this 16th day of February, 2006, upon:

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